

or as a unit and comprised of drug and device products, device and biological products, or biological and drug products;

(3) A drug, device, or biological product packaged separately that according to its investigational plan or proposed labeling is intended for use only with an approved individually specified drug, device, or biological product where both are required to achieve the intended use, indication, or effect and where upon approval of the proposed product the labeling of the approved product would need to be changed, e.g., to reflect a change in intended use, dosage form, strength, route of administration, or significant change in dose; or

(4) Any investigational drug, device, or biological product packaged separately that according to its proposed labeling is for use only with another individually specified investigational drug, device, or biological product where both are required to achieve the intended use, indication, or effect.

(f) *Device* has the meaning given the term in section 201(h) of the act.

(g) *Drug* has the meaning given the term in section 201(g)(1) of the act.

(h) *FDA* means Food and Drug Administration.

(i) *Letter of designation* means the written notice issued by the product jurisdiction officer specifying the agency component with primary jurisdiction for a combination product.

(j) *Letter of request* means an applicant's written submission to the product jurisdiction officer seeking the designation of the agency component with primary jurisdiction.

(k) *Premarket review* includes the examination of data and information in an application for premarket review described in sections 505, 507, 510(k), 513(f), 515, or 520(g) or 520(l) of the act or section 351 of the Public Health Service Act of data and information contained in any investigational new drug (IND) application, investigational device exemption (IDE), new drug application (NDA), antibiotic application, biological product or establishment license application, device premarket notification, device reclassification petition, and premarket approval application (PMA).

(l) *Product* means any article that contains any drug as defined in section 201(g)(1) of the act; any device as defined in section 201(h) of the act; or any biologic as defined in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

(m) *Product jurisdiction officer* is the person or persons responsible for designating the component of FDA with primary jurisdiction for the premarket review and regulation of a combination product or any product requiring a jurisdictional designation under this part.

(n) *Sponsor* means "applicant" (see § 3.2(c)).

§ 3.3 Scope.

This section applies to: (a) Any combination product, or

(b) Any product where the agency component with primary jurisdiction is unclear or in dispute.

§ 3.4 Designated agency component.

(a) To designate the agency component with primary jurisdiction for the premarket review and regulation of a combination product, the agency shall determine the primary mode of action of the product. Where the primary mode of action is that of:

(1) A drug (other than a biological product), the agency component charged with premarket review of drugs shall have primary jurisdiction;

(2) A device, the agency component charged with premarket review of devices shall have primary jurisdiction;

(3) A biological product, the agency component charged with premarket review of biological products shall have primary jurisdiction.

(b) The designation of one agency component as having primary jurisdiction for the premarket review and regulation of a combination product does not preclude consultations by that component with other agency components or, in appropriate cases, the requirement by FDA of separate applications.

§ 3.5 Procedures for identifying the designated agency component.

(a)(1) The Center for Biologics Evaluation and Research, the Center for Devices and Radiological Health, and

the Center for Drug Evaluation and Research have entered into agreements clarifying product jurisdictional issues. These guidance documents are on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and are entitled “Intercenter Agreement Between the Center for Drug Evaluation and Research and the Center for Devices and Radiological Health;” “Intercenter Agreement Between the Center for Devices and Radiological Health and the Center for Biologics Evaluation and Research;” “Intercenter Agreement Between the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research.” The availability of any amendments to these intercenter agreements will be announced by FEDERAL REGISTER notice.

(2) These guidance documents describe the allocation of responsibility for categories of products or specific products. These intercenter agreements, and any amendments thereto, are nonbinding determinations designed to provide useful guidance to the public.

(3) The sponsor of a premarket application or required investigational filing for a combination or other product covered by these guidance documents may contact the designated agency component identified in the intercenter agreement before submitting an application of premarket review or to confirm coverage and to discuss the application process.

(b) For a combination product not covered by a guidance document or for a product where the agency component with primary jurisdiction is unclear or in dispute, the sponsor of an application for premarket review should follow the procedures set forth in §3.7 to request a designation of the agency component with primary jurisdiction before submitting the application.

§3.6 Product jurisdiction officer.

FDA Ombudsman (HF-7), Food and Drug Administration, rm. 14-84, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306, is the designated product jurisdiction officer.

§3.7 Request for designation.

(a) Who should file: the sponsor of:

(1) Any combination product the sponsor believes is not covered by an intercenter agreement; or

(2) Any product where the agency component with primary jurisdiction is unclear or in dispute.

(b) When to file: a sponsor should file a request for designation before filing any application for premarket review, whether an application for marketing approval or a required investigational notice. Sponsors are encouraged to file a request for designation as soon as there is sufficient information for the agency to make a determination.

(c) What to file: an original and two copies of the request for designation must be filed. The request for designation must not exceed 15 pages, including attachments, and must set forth:

(1) The identity of the sponsor, including company name and address, establishment registration number, company contact person and telephone number.

(2) A description of the product, including:

(i) Classification, name of the product and all component products, if applicable;

(ii) Common, generic, or usual name of the product and all component products;

(iii) Proprietary name of the product;

(iv) Identification of any component of the product that already has received premarket approval, is marketed as not being subject to premarket approval, or has received an investigational exemption, the identity of the sponsors, and the status of any discussions or agreements between the sponsors regarding the use of this product as a component of a new combination product.

(v) Chemical, physical, or biological composition;

(vi) Status and brief reports of the results of developmental work, including animal testing;

(vii) Description of the manufacturing processes, including the sources of all components;

(viii) Proposed use or indications;

(ix) Description of all known modes of action, the sponsor's identification